

an increase in estimated cost or fee for cost-reimbursement contracts.

*Defect* means any condition or characteristic in any supplies or services furnished by the contractor under the contract that is not in compliance with the requirements of the contract.

*Design and manufacturing requirements* means structural and engineering plans and manufacturing particulars, including precise measurements, tolerances, materials and finished product tests for the major system being produced.

*Major system* means a system or major subsystem used directly by the Department of Homeland Security (DHS) to carry out its mission(s), as defined by HSAM Chapter 1234, Major Acquisition Policies and Procedures (for dollar threshold applicable to U.S. Coast Guard, See Coast Guard guidance at (HSAR) 48 CFR 3046.701-90). The term does not include:

(1) Related support equipment, such as ground-handling equipment, training devices and accessories thereto, unless a cost effective warranty for the system would require inclusion of such items; or

(2) Commercial items sold in substantial quantities to the general public as described in (FAR) 48 CFR part 2.

*Performance requirements* means the operating capabilities, maintenance, and reliability characteristics of a system that are determined to be necessary for it to fulfill the requirement for which the system is designed.

#### **3046.703 Criteria for use of warranties.**

(a) *Major Systems.* The use of warranties in the procurement of major systems by the USCG is mandatory, unless waived (see USCG guidance at (HSAR) 48 CFR 3046.792). Other OEs may use the procedures in USCG guidance in this part as a guideline for major systems acquisitions.

#### **3046.705 Limitations.**

(a) The following restrictions are applicable to DHS contracts:

(1) The USCG is required to include a warranty in cost reimbursement contracts for the production of major systems acquisitions.

(2) Any warranty on major system acquisitions shall not apply in the case

of any system or component thereof which has been furnished by the Government to a contractor except as indicated in the USCG guidance at (HSAR) 48 CFR 3046.791-3.

(3) Any warranty obtained shall specifically exclude coverage of damage in time of war or national emergency.

#### **3046.706 Warranty terms and conditions.**

(a) The contracting officer, in developing the warranty terms and conditions, shall consider the following, and, where appropriate and cost beneficial, shall:

(1) Identify the affected line item(s) and the applicable specification(s);

(2) Require that the line item's design and manufacture will conform to:

(i) An identified revision of a top-level drawing; and/or

(ii) An identified specification or revision thereof;

(3) Require that the system conform to the specified Government performance requirements;

(4) Require that all systems and components delivered under the contract will be free from defects in materials and workmanship;

(5) State that in the event of failure due to nonconformance with specification and/or defects in material and workmanship, the contractor will bear the cost of all work necessary to achieve the specified performance requirements, including repair and/or replacement of all parts;

(6) Require the timely replacement/repair of warranted items and specify lead times for replacement/repair where possible;

(7) Identify the specific paragraphs containing Government performance requirements which must be met;

(8) Ensure that any performance requirements identified as goals or objectives in excess of specification requirements are excluded from the warranty provision;

(9) Define what constitutes the start of the warranty period (*e.g.*, delivery, acceptance, in-service date), the ending of the warranty (*e.g.*, passing a test or demonstration, or operation without failure for a specified time period), and circumstances requiring an extension of warranty duration (*e.g.*, extending